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Attorneys for Tort Claimants Committee

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON,

Debtor.

TORT CLAIMANTS COMMITTEE,

Plaintiff,

v.

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON,

Defendant.

CLERK US BANKRUPTCY COURT
DISTRICT OF OREGON

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Case No. 04-37154-elp11

Adversary Proceeding

No. 04-3292-elp

**COMPLAINT (DECLARATORY
JUDGMENT RE PROPERTY OF
THE ESTATE)**

The Committee of Tort Claimants ("Committee") alleges as follows:

1 1. The Committee is the Committee of Tort Claimants appointed by the
2 United States Trustee pursuant to 11 USC § 1102(a)(1).

3 2. The Roman Catholic Archbishop of Portland in Oregon, and
4 successors, a corporation sole ("Debtor"), is an Oregon non-profit corporation doing business
5 as the Archdiocese of Portland in Oregon. Debtor was originally incorporated as a non-profit
6 corporation in Oregon in 1874 with the name "Roman Catholic Archbishop of the Diocese of
7 Oregon." In 1940, Debtor's name was changed to "Roman Catholic Archbishop of the
8 Archdiocese of Portland in Oregon." In 1991, Debtor merged with the Archdiocese of
9 Portland in Oregon, an Oregon nonprofit corporation, and was the surviving corporation
10 resulting from the merger. In 1994, Debtor filed Articles of Correction which stated its
11 correct name as "Roman Catholic Archbishop of the Archdiocese of Portland in Oregon, and
12 successors, a corporation sole." Thereafter, Debtor filed its Articles of Amendment, which
13 changed its name to "Roman Catholic Archbishop of Portland in Oregon, and successors, a
14 corporation sole."

15 3. Jurisdiction over this adversary proceeding arises under 28
16 USC §§ 1334(b) and 157(b), and Rule 2101-1 of the Local Rules of Civil Procedure for the
17 United States District Court for the District of Oregon.

18 4. Venue is proper in this district pursuant to 28 USC § 1409(a) because
19 this is a core proceeding arising in a bankruptcy case pending in this district.

20 5. This proceeding is a core proceeding under 28 USC § 157(b).

21 6. On July 6, 2004 (the "Petition Date"), Debtor filed a voluntary petition
22 for relief under Chapter 11 of Title 11 of the United States Code.

23 7. The filing by Debtor of its voluntary petition created an estate
24 comprised of the property described in 11 USC § 541(a), wherever located and by whomever
25 held, including all legal or equitable interests of Debtor in property as of the commencement
26 of the case, and any interest in property that the estate acquires after the commencement of

1 the case.

2 8. On July 30, 2004, pursuant to 11 USC § 521 and Bankruptcy
3 Rule 1007(b), Debtor filed its Statement of Financial Affairs and its Schedules of Assets and
4 Liabilities.

5 9. On Schedule B, Personal Property, to Debtor's Schedules of Assets
6 and Liabilities, Debtor listed the following personal property that is being held in Debtor's
7 name or has been deposited or invested in accounts in Debtor's name, but that "Debtor does
8 not consider to be property of the estate:"

9 a. An Umpqua Bank Money Market Account with a balance of
10 \$17,554.33 containing funds that Debtor does not consider to be property of the estate;

11 b. A Union Bank Short-Term Cash Account with a balance of
12 \$9,625,214 as of June 30, 2004 containing funds that Debtor does not consider to be property
13 of the estate;

14 c. A Union Bank of California Equity Account with a value as of
15 June 30, 2004 of \$59,546,693 that Debtor does not consider to be property of the estate;

16 d. Union Bank of California Archdiocese Fixed Income Accounts
17 with a value as of June 30, 2004 of \$28,680,991 that Debtor does not consider to be property
18 of the estate; and

19 e. Certain machinery, equipment, fixtures and inventory that
20 Debtor does not consider to be property of the estate.

21 10. On Schedule A, Real Property, of Debtor's Schedules of Assets and
22 Liabilities, Debtor states that it holds bare legal title, but no equitable or beneficial interest, in
23 certain real property assets listed in response to Question 14 on Debtor's Statement of
24 Financial Affairs.

25 11. In response to Question 14 on its Statement of Financial Affairs,
26 Debtor attached Exhibits 14.A and 14.B as follows:

1 a. In Exhibit 14.A to Debtor's Statement of Financial Affairs,
2 Debtor states that it is holding for others certain bank accounts, investment accounts and
3 other funds and accounts, more particularly described in Exhibit 14.A.

4 b. In Exhibit 14.B to Debtor's Statement of Financial Affairs,
5 Debtor states that it holds bare legal title to certain real properties for the benefit of parishes,
6 schools, cemeteries and other interests, and that Debtor has no legal or beneficial interests in
7 the properties, all as more particularly described in Exhibit 14.B to Debtor's Statement of
8 Financial Affairs.

9 12. The Committee contends that the real and personal property listed on
10 Exhibits 14.A and 14.B to Debtor's Statement of Financial Affairs, and the real and personal
11 property identified on Schedules A and B to Debtor's Schedules of Assets and Liabilities as
12 property that Debtor does not consider to be property of the estate or that Debtor contends are
13 being held by Debtor for others (together, all such property shall be referred to as the
14 "Disputed Property"), is, in fact, property of Debtor's estate free and clear of the interests of
15 any other person.

16 13. An actual controversy exists with respect to the interests of the estate
17 in the Disputed Property..

18 WHEREFORE, the Committee prays for :

19 (a) A declaratory judgment that the Disputed Property is property of the
20 estate free of the interests of any other person; and

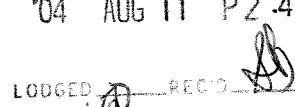
21 (b) Such other and further relief as is just and equitable.

22 DATED this 11th day of August, 2004.

23 TONKON TORP LLP

24
25 By 
26 ALBERT N. KENNEDY, OSB No. 82142
Attorneys for Tort Claimants Committee

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B 104 ADVERSARY PROCEEDING COVER SHEET (Rev. 2/92) (Instructions on Page 2)		ADVERSARY PROCEEDING NUMBER (Court Use Only) 04-3292	
PLAINTIFF TORT CLAIMANTS COMMITTEE <div style="text-align: right; margin-top: 10px;"> 04 AUG 11 P2:44  </div>		DEFENDANTS ROMAN CATHOLIC ARCHBISHOP OF PORTLAND IN OREGON, AND SUCCESSORS, A CORPORATION SOLE, dba the Archdiocese of Portland in Oregon,	
ATTORNEYS (Firm Name, Address, and Telephone No.) Albert N. Kennedy 503-802-2013 Tonkon Torp LLP 1600 Pioneer Tower 888 S.W. Fifth Avenue Portland, OR 97204-2099		ATTORNEYS (If Known) Thomas W. Stilley 503-227-1111 William N. Stiles Sussman Shank LLP 1000 S.W. Broadway, Suite 1400 Portland, OR 97205-3089	
PARTY (Check one box only) <input type="checkbox"/> 1. U.S. PLAINTIFF <input type="checkbox"/> 2. U.S. DEFENDANT <input checked="" type="checkbox"/> 1. U.S. NOT A PARTY			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) The action seeks a declaratory judgment relating to certain property of the estate			
NATURE OF SUIT (Check the one most appropriate box only.)			
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input type="checkbox"/> 454 To Recover Money or Property</div> <div style="width: 50%;"><input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12 or Chap. 13 Plan</div> <div style="width: 50%;"><input checked="" type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action</div> <div style="width: 50%;"><input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property</div> <div style="width: 50%;"><input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. §523</div> <div style="width: 50%;"><input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court</div> <div style="width: 50%;"><input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner of the property</div> <div style="width: 50%;"><input type="checkbox"/> 434 To obtain an injunction or other equitable relief</div> <div style="width: 50%;"><input type="checkbox"/> 498 Other (specify)</div> <div style="width: 50%;"><input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727</div> <div style="width: 50%;"><input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan</div> </div>			
ORIGIN OF PROCEEDINGS <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred From Another Bankruptcy Court <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23			
DEMAND	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT Declaratory Judgment	<input type="checkbox"/> JURY DEMAND
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES			
NAME OF DEBTOR ROMAN CATHOLIC ARCHBISHOP OF PORTLAND IN OREGON, AND SUCCESSORS, A CORPORATION SOLE, dba the Archdiocese of Portland in Oregon,		BANKRUPTCY CASE NO. 04-37154-elp11	
DISTRICT IN WHICH CASE IS PENDING Oregon		DIVISIONAL OFFICE	NAME OF JUDGE Elizabeth L. Perris
RELATED ADVERSARY PROCEEDING (IF ANY)			
PLAINTIFF		DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT		DIVISIONAL OFFICE	NAME OF JUDGE
FILING FEE (Check one box only.) <input checked="" type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED			
DATE August 11, 2004	PRINT NAME Albert N. Kennedy	SIGNATURE OF ATTORNEY (OR PLAINTIFF) 